

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

**JEROME W. GRIFFIN, for
himself and all others similarly
situated,**

Plaintiff,

V.

**ALABAMA GAS
CORPORATION,**

Defendant.

**CIVIL ACTION NO.
2:06-cv-365-MEF**

AFFIDAVIT OF RANDALL W. DONALDSON

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

Before me, this undersigned authority, personally appeared Randall W. Donaldson, who is known to me and being duly sworn, deposes and says as follows:

1. My name is Randall W. Donaldson. I am the Manager-Employment of Alabama Gas Corporation. I have held this position since 1996. The matters stated in this affidavit are based on my personal knowledge, as well as a review of company documents.

2. The Operations Supervisor or Field Supervisor position is the primary route for bargaining unit employees to enter Alabama Gas's supervisory ranks.

Operations Supervisors supervise bargaining unit employees assigned to various tasks including, but not limited to, meter reading, dispatch and construction.

3. Pursuant to the Job Opportunity Program (“JOP”), Alabama Gas posts the Operations Supervisor position to allow interested employees to apply and compete for it. Prior to January 31, 2005, Alabama Gas filled this position primarily by screening the applications to identify those applicants Human Resources and/or the hiring supervisor believed were the best qualified of the applicants. After narrowing the list based on, among other things, job performance and experience, Human Resources and/or the hiring official would then interview those candidates who made the cut and, finally, select a person based on the interviews. We believe that we were consistent from candidate to candidate and from position to position and that we selected the best candidate for each vacancy. The selection criteria we used were derived mostly from the experience of our managers and that of Human Resources. Over the years, some employees complained that our selection procedures were too subjective

4. Late in 2003, Alabama Gas enlisted Omega Consulting to develop selection criteria for some of our positions. One of our goals was to ensure that we selected candidates with the necessary skills and knowledge for the position. We wanted a group that had experience with job testing and assessment. Omega Consulting came highly recommended to us as a group that had done similar work

for other employers and also on behalf of plaintiffs challenging selection procedures. Omega is comprised of experts in industrial and organization psychology and is run primarily by individuals affiliated with Auburn University Montgomery. We selected them based on their expertise in job analysis, test development and validation.

5. After extensive interaction with our employees, which included individual and group interviews and the completion of questionnaires, Omega Consulting developed selection modules for the following positions: Operations Supervisor and Marketing Representative.

6. I understand that the Operations Supervisor is the only selection module Jerome Griffin is challenging in this case. This position is also sometimes referred to as Field Supervisor. This is the only supervisory position for which Omega Consulting has developed a Hogan Personality Inventory ("the Hogan") and a structured interview. It is my understanding that Mr. Griffin is contending that the Hogan and structured interview have an adverse impact on African-Americans seeking supervisory positions.

7. Alabama Gas first used the Hogan and the structured interview for the Operations Supervisor position on January 31, 2005. So far, we have used it to fill eight positions. For these eight positions, 55 individuals have taken the Hogan, including ten African-Americans. The ten African-Americans are Donna Collins,

Willie Simmons, Juanita Chamblin, Nytosha Lott, Juanita Austin, Robert Blevins, Sylvester Cannon, Jerome Griffin, George Watson and Timothy White. Eight of the 10 African-Americans, including Jerome Griffin, passed the Hogan, and 29 of the 45 whites passed. Griffin passed it the first time he took it in April 2005.

8. An employee only has to successfully complete the Hogan once. Thereafter, when that employee applies for another Operations Supervisor position, he or she automatically advances to the next phase of the selection process. For a passing grade on the Hogan, an employee needs to score at or above the minimum scores of 60 on Adjustment, 55 on Ambition and 50 on Prudence.

9. For each vacancy, candidates who successfully pass the Hogan advance to the structured interview. So far, 35 individuals— 28 whites and 7 African-Americans — have advanced to the structured interview phase of the selection process. Tim White, one of the African American employees who passed the Hogan, withdrew and did not participate in the structured interview. Nineteen (one African American and 18 whites) of the 35 who advanced to the structured interview have received a passing score of 56 or higher on the structured interview.

10. When we first implemented the Omega selection procedures, the passing score was set at 71 for the structured interview. However, after the first round of interviews, we found that all scores were well below 71. After consulting with Omega Consulting and realizing that our hourly workplace simply did not

have the skill sets we believed they had when we initially set the score at 71, we decided to lower the passing score to 56.

11. Once an employee achieves a passing score, he or she no longer has to redo the structured interview. Instead, if that employee applies for another Operations Supervisor vacancy, he or she is automatically considered for that position, along with any other successful candidates.

12. As stated previously, so far, Alabama Gas has used the Hogan and structured interviews to fill eight positions. The break down of the minority applicants, if any, for these positions is as follows:

a. January/February 2005 – Operations Supervisor Anniston and Operations Supervisor Gadsden. Alabama Gas used one posting for these two positions and considered the applicants for both positions. Thirteen individuals applied for the two positions, including 3 African-Americans: Donna Collins, George Watson and Willie Simmons. *See* Exhibit 1.

b. April 2005 – Field Supervisor Birmingham. Twelve individuals applied for this position, including three African-Americans: Jerome Griffin, Bernard Witt and Robert Blevins. *See* Exhibit 2. Witt and Blevins withdrew their applications before taking the Hogan. Three white candidates also withdrew their applications.

Of the seven remaining candidates, only Griffin and Terry Salter, a white male, passed the Hogan. However, both scored below the 56 passing cut-off in the structured interview. Since there were no successful candidates, the position remained open. During this period, Karl Peterson, who held the position of Field Supervisor – New Construction on the day shift before being summoned to active duty, returned from military service on July 24, 2005. Consequently, under our policies and the law, we had to reinstate Mr. Peterson to a comparable position. As a result, shortly after Mr. Peterson returned, we moved Ernie Clark (Field Supervisor Metro) to the night shift and placed Mr. Peterson on the day shift – which is where he worked as a supervisor before his military leave. Mr. Peterson's reinstatement resulted in Alabama Gas no longer having a need to fill the Field Supervisor position.

c. April 2005 – Operations Supervisor Montgomery. This position was not posted. Todd Harmon was the only candidate considered due to a reorganization. *See* Exhibit 3. Prior to his selection for this position, Mr. Harmon was a supervisor in the Montgomery Call Center, a non-Operations position. Because of the reorganization, the Montgomery Division wanted to move Mr.

Harmon from the Call Center into Operations. Since the proposed move would result in a transfer for Mr. Harmon to Operations, Mr. Harmon had to successfully complete both the Hogan and structured interview, which he did. If he had not, he would not have received the position even though he was already a supervisor.

d. November 2005 – Operations Supervisor Opelika. No African-American applied for this position. *See* Exhibit 4.

e. November 2005 – Field Supervisor New Construction, Birmingham. Seventeen individuals applied for this position, including 5 African-Americans: Jerome Griffin, Robert Blevins, Sylvester Cannon, Joe Ivy and Timothy White. Ivy withdrew before the Hogan. *See* Exhibit 5.

f. April 2006 – Field Supervisor I & O, Birmingham. Nine individuals applied for this position, including Griffin who was the only African-American applicant. *See* Exhibit 6. Griffin advanced straight to the structured interview phase since he had already successfully completed the Hogan. For reasons that Griffin refused to explain, unlike in April and November 2005 when he sat for structured interview, this time he refused to sign the Confidentiality Agreement which, among other things, asks that the candidate agree

to refrain from discussing the specific interview questions with other employees. This is important because one of the key elements of the structured interviews is that each candidate is asked the same questions in the exact same order. Because Mr. Griffin refused to sign the Agreement, he was not interviewed for the position.

g. July 2006 – Supervisor Customer Service. This position supervises bargaining uniting employees assigned to the Birmingham Dispatch office and, among other duties, responds to call-outs and emergency calls. This position is in Operations and is different from the Commercial Office customer service supervisor positions, which do not have a Hogan or structured interview module. Nine individuals applied for this position, including three African-Americans: Juanita Austin, Juanita Chamblin and Nytosha Lott. *See* Exhibit 7. Austin was one of the candidates who successfully completed both the Hogan and the structured interview for this position.

13. Alabama Gas's posting policy is outlined in its Job Opportunity Program ("JOP"). The JOP states clearly that posting is limited to "clerical positions, entry-level technical and professional positions, and first-line supervisory positions of non-exempt employees." The JOP is clear that supervisory and management positions above the first-line level, such as Superintendent, are

excluded from posting. Instead, Alabama Gas fills these higher level positions generally by promoting employees from the supervisory ranks.

14. The Company has never posted higher level positions since the pool for these positions is limited and the hiring officials know precisely the group of employees that are eligible for these higher level positions. For example, when we have a vacancy for a Superintendent, we know that front level operations supervisors make up the relevant pool of candidates and we will therefore consider them as candidates for the position. Specifically, when there is a vacancy, the Human Resources Department prepares a HRIS report showing all employees. This report is sorted by job, pay grade and experience to form a candidate list based on the job duties for the vacant position. The Human Resources Department reviews this list of potential candidates with the hiring supervisor, who in conjunction with Human Resources identifies candidates for interviews.

15. Currently, three of Alabama Gas's eleven Superintendents are African American (Terry Smiley, Henry Buchanan and Lehman Tucker). Joe Hampton, who was also a Superintendent, was recently promoted to Division Manager – Selma, effective October 1, 2006. All these individuals were promoted into positions that were not posted and thus they did not have to apply for these positions.

16. Like Mike Gorenflo, Lehman Tucker and Henry Buchanan do not have a college degree because one is not required for the Superintendent position. Instead, Alabama Gas looks for candidates who have demonstrated success in prior supervisory positions, leadership skills, people skills and a thorough knowledge of Alabama Gas's gas distribution policies and procedures.

17. Alabama Gas notes that the following African Americans in supervisory positions also do not have college degrees: Mitch Avery, Lois Brown, Tony Carter, Sharon Davis, Brooklyn Freeman, Cedric Griffin, Lee Henderson, Michelle Hicks, James Holloway, Debra Hunter, Robert Killings, Alfred Morris, Evon Moss, Sabrina Pruitt, Regina Stephenson, Patricia Washington, Jackie Watkins, Greg Williams, Ken Williams, and Robert Williams. Also, Marvin Goldsby, who recently retired as Office Manager in Montgomery, did not have a degree. Finally, Reggie Johnson, Manager – Technical Training, and Debra Hunter, Manager – Client Support, did not have a degree when they received their first promotions. While we encourage our employees to further their education, the Company does not require college degrees for supervisory positions in Operations or in the Commercial Office.

18. Again, the entry level Operations Supervisor position is the only supervisory position for which Alabama Gas has implemented the Hogan and the structured interview. I understand that Jerome Griffin is claiming that we failed to

use the Hogan and structured interviews when we promoted Lois Brown, Kelli Leslie, Sharon Davis, Jennifer Osborne and Donna Collins – all of whom he claims are white. He is incorrect about their race because Lois Brown and Sharon Davis are African-American. While Mr. Griffin is technically correct that these women did not have to take the Hogan and the structured interview, he is incorrect in saying that we allowed them to bypass the Omega selection procedures. Rather, all of these individuals – along with African Americans Pat Washington and Evon Moss who were also moved into similar supervisory positions around the same time – work in Commercial Office positions, which do not yet have a Hogan or structured interview selection mechanism.

19. The Omega Consulting selection procedures have actually afforded employees like Mr. Griffin the opportunity to interview for positions for which they would not have been interviewed for under the prior selection procedures. For example, when Mr. Griffin applied for the April 2005 and November 2005 positions, because of the large number of applicants, under the old system, we probably would have screened the candidates based, in part, on years of experience. Since Mr. Griffin only had five years of experience, it is unlikely that he would have made the cut for the interview stage because the other candidates had far greater years of service than him. Now, under the new Omega selection procedures, regardless of years of service, any employee who scores at or above

the passing cutoffs on the Hogan automatically receives an interview in the structured interview phase where they can then compete with the other successful candidates.

20. I understand also that Jerome Griffin is contending that the JOP and/or other policies do not state that Alabama Gas will fill Operations Supervisor positions through the Hogan and structured interview. Since the Hogan and the structured interviews were created after the publication of the JOP, Mr. Griffin is technically correct. However, he neglects to mention that when we adopted the Omega selection procedures, we informed all applicants for Operations Supervisor vacancies of the new procedures and explained to them the selection process. Also, we have created a question and answer pamphlet that describes the procedures and have given it to applicants.

21. Since Alabama Gas started utilizing the Hogan and structured interview in January 2005, except for Ken Williams, who is African-American, all employees promoted to a first level Operations Supervisor position have passed the Hogan and the structured interview. Mr. Williams was a Field Engineer in the Birmingham Division assigned to Cast Iron Replacement. While on this job, his duties and responsibilities increased to the point where he was functioning as an Operations Supervisor, *i.e.* among other things, he oversaw and supervised the work of bargaining unit employees. Because he was already doing the job, we

officially moved him into the position of Field Supervisor Cast Iron Replacement Birmingham on June 2, 2006 without using the Omega selection process.

22. Todd Harmon, who is white and who was already a supervisor in the Commercial Office where he held the Supervisor – Call Center position, had to pass both Omega modules before he became an Operations Supervisor in April 2005. This was because he was moving from the Commercial Office, which does not have an Omega procedure for supervisory positions, to a position in Operations.

23. Tommy Holcombe, who received the Operations Supervisor Anniston position in February 2005, and Karl Peterson, who received the April 2005 Field Supervisor position when he returned from military leave, also did not have to use the Omega selection procedures. However, this is because both were already supervisors in Operations and simply transferred laterally to another Operations position.

24. The foregoing affidavit consisting of 13 pages is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Randall W. Donaldson", written over a horizontal line.

Randall W. Donaldson

ACKNOWLEDGMENT

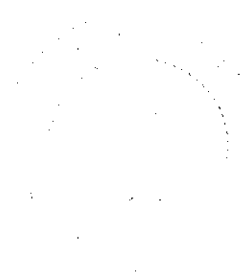
SWORN TO AND SUBSCRIBED TO BEFORE ME, this 3rd day of
October, 2006.

Debra A. Pierce

Notary Public

My commission expires: 6/4/2009

Notary Seal



ENERGEN CORPORATION**Applicant Flow Data**

Vacancy Operations Supervisor
District Anniston
Req 9845
Job Code 1C

Applicant	Date	Race	Gender	Referral	Disposition
Barry Badgett	2/10/2005	White	M	J.O.P.	Interview
Chris Sims	2/21/2005	White	M	J.O.P.	Interview/Letter
David Renaud	2/16/2005	White	M	J.O.P.	Interview/Letter
Donna E. Collins	2/18/2005	Black	F	J.O.P.	Interview/Letter
Donna Jackson	2/15/2005	White	F	J.O.P.	Interview/Letter
George Watson	2/17/2005	Black	M	J.O.P.	Interview/Letter
Jalyn Seay	2/17/2005	White	F	J.O.P.	Interview/Letter
Joey Millican	2/9/2005	White	M	J.O.P.	Interview/Letter
John Smith	2/21/2005	White	M	J.O.P.	Interview/Letter
Michael Cobb	2/19/2005	White	M	J.O.P.	Interview/Letter
Stephen Hartley	1/31/2005	White	M	J.O.P.	Interview/Letter
Tommy Holcomb	2/21/2005	White	M	Internal	Hired
Willie Simmons	2/17/2005	Black	M	J.O.P.	Interview/Letter

ENERGEN CORPORATION**Applicant Flow Data**

Vacancy Operations Supervisor
District Gadsden
Req 9850
Job Code IC

Applicant	Date	Race	Gender	Referral	Disposition
Barry Badgett	2/10/2005	White	M	J.O.P.	Hired
Chris Sims	2/21/2005	White	M	J.O.P.	Interview/Letter
David Renaud	2/16/2005	White	M	J.O.P.	Interview/Letter
Donna E. Collins	2/18/2005	Black	F	J.O.P.	Interview/Letter
Donna Jackson	2/15/2005	White	F	J.O.P.	Interview/Letter
George Watson	2/17/2005	Black	M	J.O.P.	Interview/Letter
Jalyn Seay	2/17/2005	White	F	J.O.P.	Interview/Letter
Joey Millican	2/9/2005	White	M	J.O.P.	Interview/Letter
John Smith	2/21/2005	White	M	J.O.P.	Interview/Letter
Michael Cobb	2/19/2005	White	M	J.O.P.	Interview/Letter
Stephen Hartley	1/31/2005	White	M	J.O.P.	Interview/Letter
Tommy Holcomb	2/21/2005	White	M	J.O.P.	Interview
Willie Simmons	2/17/2005	Black	M	J.O.P.	Interview/Letter

ENERGEN CORPORATION

Applicant Flow Data

Vacancy Field Supervisor
District Birmingham
Req 9870
Job Code 1C

Applicant	Date	Race	Gender	Referral	Disposition
Bernard Witt	4/8/2005	Black	M	J.O.P.	Withdrew
Chris Hill	4/11/2005	White	M	J.O.P.	Not Interviewed/Letter
Eddie Brown	4/8/2005	White	M	J.O.P.	Not Interviewed/Letter
Gary Calvert	4/12/2005	White	M	J.O.P.	Not Interviewed/Letter
Jason Hendon	4/11/2005	White	M	J.O.P.	Withdrew
Jeff Newell	4/12/2005	White	M	J.O.P.	Withdrew
Jerome Griffin	4/13/2005	Black	M	J.O.P.	Interview/Letter
Jimmie McMichael	4/13/2005	White	M	J.O.P.	Not Interviewed/Letter
Karl Peterson	6/27/2005	White	M	Internal	Hired
Keith Williamson	4/11/2005	White	M	J.O.P.	Withdrew
Reid Coppage	4/13/2005	White	M	J.O.P.	Not Interviewed/Letter
Robert Blevins	4/13/2005	Black	M	J.O.P.	Withdrew
Terry Salter	4/7/2005	White	M	J.O.P.	Interview/Letter

ENERGEN CORPORATION**Applicant Flow Data**

Vacancy Operations Supervisor
 District Montgomery
 Req 9932A
 Job Code IC

Applicant	Date	Race	Gender	Referral	Disposition
Harmon, Todd	4/18/2005	White	M	Internal	Hired

Applicant Totals		B	W	O	Totals
		0	1	0	1
		0	0	0	0
		0	1	0	1

Offer Extended To:	Harmon, Todd	New Hire	No	From Job Group
Race:	White	Promotion	No	IC To IC
Gender:	M	Transfer	Yes	
Effective Date:	4/18/2005	Do Not Include	Yes	

Offer Extended To:		New Hire		From Job Group
Race:		Promotion		To IC
Gender:		Transfer		
Effective Date:	4/18/2005	Do Not Include		

Offer Extended To:		New Hire		From Job Group
Race:		Promotion		To IC
Gender:		Transfer		
Effective Date:	4/18/2005	Do Not Include		

ENERGEN CORPORATION**Applicant Flow Data**

Vacancy Operations Supervisor
 District Opelika
 Req 9853
 Job Code 1C

Applicant	Date	Race	Gender	Referral	Disposition
Basford, Jonathan	11/30/2005	White	M	J.O.P.	Withdrew
Clark, Bradley	11/30/2005	White	M	J.O.P.	Notified
Crosson, Darrin	11/22/2005	White	M	J.O.P.	Hired

Applicant Totals		B	W	O	Totals
		0	2	0	2
		0	0	0	0
		0	2	0	2

Offer Extended To:	Crosson, Darrin	New Hire	No	From Job Group
Race:	White	Promotion	Yes	3B To 1C
Gender:	M	Transfer	No	
Effective Date:	12/26/2005	Do Not Include	No	

Offer Extended To:		New Hire		From Job Group
Race:		Promotion		To 1C
Gender:		Transfer		
Effective Date:	12/26/2005	Do Not Include		

Offer Extended To:		New Hire		From Job Group
Race:		Promotion		To 1C
Gender:		Transfer		
Effective Date:	12/26/2005	Do Not Include		

ENERGEN CORPORATION**Applicant Flow Data**

Vacancy Field Supv-New Const
District Birmingham
Req 9967
Job Code 1C

Applicant	Date	Race	Gender	Referral	Disposition
Blevins, Robert	11/28/2005	Black	M	J.O.P.	Interview
Cannon, Sylvester	11/28/2005	Black	M	J.O.P.	Interview
Chandler, Milton	11/21/2005	White	M	J.O.P.	Interview
Coppage, Reid	11/23/2005	White	M	J.O.P.	Withdrew
Garrett, David	11/21/2005	White	M	J.O.P.	Interview
Griffin, Jerome	11/28/2005	Black	M	J.O.P.	Interview
Hendon, Jason	11/23/2005	White	M	J.O.P.	Interview
Ivy, Joe	11/23/2005	Black	M	J.O.P.	Withdrew
Lauderdale, Jon	11/28/2005	White	M	J.O.P.	Interview
McIntyre, Ken	11/22/2005	White	M	J.O.P.	Interview
Morrison, Max	11/28/2005	White	M	J.O.P.	Interview
Newell, Jeff	11/22/2005	White	M	J.O.P.	Notified
Otts, Susan	11/28/2005	White	F	J.O.P.	Notified
Smith, Mickey	11/21/2005	White	M	J.O.P.	Interview
Thompson, Anthony	11/22/2005	White	M	J.O.P.	Notified
West, Chuck	11/21/2005	White	M	J.O.P.	Hired
White, Timothy	11/22/2005	Black	M	J.O.P.	Notified

ENERGEN CORPORATION**Applicant Flow Data**

Vacancy Field Supervisor - I & O
 District Birmingham
 Req 06-117
 Job Code 1C

Applicant	Date	Race	Gender	Referral	Disposition
Brewer, David	4/25/2006	White	M	J.O.P.	Notified
Coppage, Reid	4/24/2006	White	M	J.O.P.	Hired
Griffin, Jerome	4/27/2006	Black	M	J.O.P.	Notified
Hill, Chris	4/25/2006	White	M	J.O.P.	Interview
Mark, Ralph	4/27/2006	White	M	J.O.P.	Withdrew
McIntyre, Kenneth	4/25/2006	White	M	J.O.P.	Declined Offer
Newell, Jeff	4/26/2006	White	M	J.O.P.	Notified
Treadaway, Jackey	4/25/2006	White	M	J.O.P.	Interview
Williamson, Donald	4/21/2006	White	M	J.O.P.	Notified

Applicant Totals		B	W	O	Totals
		1	7	0	8
		0	0	0	0
		1	7	0	8

Offer Extended To:	Coppage, Reid	New Hire	No	From Job Group
Race:	White	Promotion	Yes	6 To 1C
Gender:	M	Transfer	No	
Effective Date:	7/1/2006	Do Not Include	No	

Offer Extended To:		New Hire		From Job Group
Race:		Promotion		To 1C
Gender:		Transfer		
Effective Date:	7/1/2006	Do Not Include		

Offer Extended To:		New Hire		From Job Group
Race:		Promotion		To 1C
Gender:		Transfer		
Effective Date:	7/1/2006	Do Not Include		

ENERGEN CORPORATION**Applicant Flow Data**

Vacancy Supervisor - Customer Svc
District Birmingham
Req 06-160
Job Code 1C

Applicant	Date	Race	Gender	Referral	Disposition
Austin, Juanita	7/10/2006	Black	F	J.O.P.	Interview
Chamblin, Juanita	7/13/2006	Black	F	J.O.P.	Interview
Davis, Lori	7/13/2006	White	F	J.O.P.	Interview
Drummond, Keith	7/13/2006	White	M	J.O.P.	Interview
Lott, Nytosha	7/12/2006	Black	F	J.O.P.	Interview
Mark, Ralph	7/10/2006	White	M	J.O.P.	Interview
Newell, Jeff	7/12/2006	White	M	J.O.P.	Interview
Osborne, Jennifer	7/12/2006	White	F	J.O.P.	Hired
Praytor, Kevin	7/12/2006	White	M	J.O.P.	Interview

Applicant Totals		B	W	O	Totals
		0	4	0	4
		3	2	0	5
		3	6	0	9
Offer Extended To: Osborne, Jennifer		New Hire	No	From Job Group	
Race: White		Promotion	Yes	1C To 1C	
Gender: F		Transfer	No		
Effective Date: 8/14/2006		Do Not Include	Yes		
Offer Extended To:		New Hire		From Job Group	
Race:		Promotion		To 1C	
Gender:		Transfer			
Effective Date: 8/14/2006		Do Not Include			
Offer Extended To:		New Hire		From Job Group	
Race:		Promotion		To 1C	
Gender:		Transfer			
Effective Date: 8/14/2006		Do Not Include			